

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENWOOD DIVISION

Tyrone Lamar Roberson, #191327,)	C/A NO. 8:09-1333-CMC-BHH
)	
Plaintiff,)	
)	
-versus-)	OPINION and ORDER
)	
South Carolina Department of Corrections,)	
Jon E. Ozmint, SCDC Office of General)	
Counsel,)	
)	
Defendants.)	
_____)	

This matter is before the court on Plaintiff's *pro se* complaint alleging violations of 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation ("Report"). On January 27, 2010, the Magistrate Judge issued a Report recommending that Plaintiff's complaint be dismissed for failure to exhaust his administrative remedies, and that all Plaintiff's pending motions be denied as moot. In the alternative, the Magistrate Judge recommended granting Defendants' motion for summary judgment. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. On February 3, 2010, Plaintiff filed an objection to Magistrate Judge Hendricks' order filed January 21, 2010. Dkt. # 39. However, Plaintiff has filed no specific objections to the Report and Recommendation, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

The court has considered Plaintiff’s objection to Magistrate Judge Hendricks’ order of January 21, 2010. *See* Dkt. # 39 (filed Feb. 3, 2010). Plaintiff has failed to show that the Order of the Magistrate Judge is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A). Therefore, the court declines to reconsider the Order of the Magistrate Judge.

Defendants’ motion for summary judgment is **granted** and Plaintiff’s pending motions for declaratory judgment (Dkt. # 24), for preliminary injunction (Dkt. # 27), and motion to amend (Dkt. # 29) are **denied as moot**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
February 24, 2010

C:\Documents and Settings\nac60\Desktop\09-1333 Order.wpd